

AMENDED IN ASSEMBLY SEPTEMBER 9, 2003

AMENDED IN ASSEMBLY SEPTEMBER 8, 2003

SENATE BILL

No. 1058

Introduced by Senator Torlakson

February 27, 2003

An act to add and repeal Section 60227 to the Education Code, relating to ~~instructional materials~~ *children*, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1058, as amended, ~~Senator~~ Torlakson. Instructional materials: *children's mental health programs*.

Existing

(1) *Existing* law requires the State Board of Education to adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive. Existing law further requires the state board to ensure that curriculum frameworks are reviewed and adopted in each subject area consistent with specified submission cycles.

This bill would, until January 1, 2007, require the State Department of Education, prior to conducting a followup adoption, to notify all publishers and manufacturers known to produce basic instructional materials in that subject, that a fee will be assessed based on the number of programs the publisher or manufacturer indicates will be submitted. The bill would prohibit a review of a submission until the fee is paid in full. The bill would continuously appropriate to the department the revenue derived from this fee and would make the revenue available to the department from year to year until expended.

(2) *The Budget Act of 2003 requires that \$69,000,000 of certain funds appropriated to the Department of Education for special education programs for exceptional children be used exclusively to support mental health services provided during the 2003–04 fiscal year by county mental health agencies pursuant to specified provisions.*

This bill would provide that these funds shall not be used by the Controller for recoupment of prior year audit findings.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 60227 is added to the Education Code,
2 to read:

3 60227. (a) For purposes of this section, a followup adoption
4 is any adoption other than the primary adoption that occurs within
5 a six- or eight-year cycle established pursuant to subdivision (b)
6 of Section 60200.

7 (b) Before conducting a followup adoption in a given subject,
8 the department shall provide notice, pursuant to subdivision (c), to
9 all publishers or manufacturers known to produce basic
10 instructional materials in that subject, post an appropriate notice
11 on the department's Internet site, and take other reasonable
12 measures to ensure that appropriate notice is widely circulated to
13 potentially interested publishers and manufacturers.

14 (c) The notice shall specify that each publisher or manufacturer
15 choosing to participate in the followup adoption shall be assessed
16 a fee based upon the number of programs the publisher or
17 manufacturer indicates will be submitted for review and the
18 number of grade levels proposed to be covered by each program.

19 (d) The fee shall offset the cost of conducting the followup
20 adoption process and shall reflect the department's best estimate
21 of the cost. The department shall take reasonable steps to limit
22 costs of the followup adoption and to keep the fee modest,
23 recognizing that some of the work necessary for the primary
24 adoption need not be duplicated.

25 (e) The department, prior to incurring substantial costs for the
26 followup adoption, shall require that a publisher or manufacturer
27 who wishes to participate in the followup adoption first declare the
28 intent to submit one or more specific programs for the followup



1 adoption and specify the specific grade levels to be covered by
2 each program. After a publisher or manufacturer has declared the
3 intent to submit one or more programs and the grade levels to be
4 covered by each program, a fee shall be assessed by the
5 department. The fee shall be payable by the publisher or
6 manufacturer even if the publisher subsequently chooses to
7 withdraw a program or reduce the number of grade levels covered.
8 A submission by a publisher or manufacturer may not be reviewed
9 for purposes of adoption, either in a followup adoption or in any
10 other primary or followup adoption conducted thereafter, until the
11 fee assessed has been paid in full.

12 (f) (1) It is the intent of the Legislature that the fee not be so
13 substantial that it prevents small publishers or manufacturers from
14 participating in a followup adoption.

15 (2) Upon the request of a small publisher or manufacturer, the
16 State Board of Education may reduce the fee for participation in
17 the followup adoption.

18 (3) For purposes of this section, “small publisher” and “small
19 manufacturer” mean an independently owned or operated
20 publisher or manufacturer who is not dominant in its field of
21 operation, and who, together with its affiliates, has 100 or fewer
22 employees, and has average annual gross receipts of ten million
23 dollars (\$10,000,000) or less over the previous three years.

24 (g) Notwithstanding subdivision (b) of Section 60200, if the
25 department determines that there is little or no interest in
26 participating in a followup adoption by publishers and
27 manufacturers, it shall recommend to the State Board of Education
28 that the followup adoption not be conducted, and the State Board
29 of Education may chose not to conduct the followup adoption.

30 (h) Notwithstanding Section 13340 of the Government Code,
31 revenue derived from fees charged pursuant to subdivision (c) is
32 hereby continuously appropriated and available to the department
33 from year to year until expended. Revenue derived from fees
34 charged pursuant to subdivision (c) may be used to pay costs
35 associated with any followup adoption and any costs associated
36 with the review of instructional materials.

37 (i) This section shall remain in effect only until January 1,
38 2007, and as of that date is repealed, unless a later enacted statute,
39 that is enacted before January 1, 2007, deletes or extends that date.

1 *SEC. 2. Notwithstanding any other provision of law, funds*
2 *appropriated pursuant to Provision 17 of Item 6110-161-0890 of*
3 *the Budget Act of 2003 (Ch. 157, Stats. 2001) shall not be used by*
4 *the Controller for recoupment of prior year audit findings.*

